

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

**IN RE: JOHNSON & JOHNSON
TALCUM POWDER PRODUCTS
MARKETING, SALES PRACTICES,
AND PRODUCTS LIABILITY
LITIGATION**

MDL NO. 3:16-md-2738-FLW-LHG

**JUDGE FREDA L. WOLFSON
MAG. JUDGE LOIS H. GOODMAN**

THIS DOCUMENT RELATES TO:

***ROSEMARY LAMANTIA v. JOHNSON &
JOHNSON, et al.***

Civil Action No. 3:17-cv-11809-FLW-LHG

**UNOPPOSED MOTION FOR SUBSTITUTION OF PLAINTIFF UNDER RULE 25(a)(1)
AND FOR LEAVE TO FILE AMENDMENT OF COMPLAINT TO ASSERT SURVIVAL
AND WRONGFUL DEATH CLAIMS**

Daniel LaMantia, as the surviving spouse of Rosemary LaMantia, moves the Court for an Order substituting him as the plaintiff in this action and granting him leave to file the Amended Complaint asserting claims for wrongful death and survival. Daniel LaMantia should be duly substituted as plaintiff in this action under the provisions of Rule 25(a)(1) of the Federal Rules of Civil Procedure because:

1. Rosemary LaMantia, decedent, commenced this action on November 17, 2017, before her death. (Dkt. 1.)

2. Decedent Rosemary LaMantia died on December 3, 2018, due to injuries caused by the negligent acts and omissions as alleged in her original Complaint. (Dkt.1) Decedent is survived by her spouse, Daniel LaMantia. Notice of and Suggestion of her death was filed with this Court on August 26, 2020.

3. Under Wisconsin law, WIS. STAT. § 895.04, a civil action for wrongful death may be brought by the surviving spouse of the deceased. Daniel LaMantia is the surviving spouse of Rosemary LaMantia.

4. Pursuant to Wisconsin law, the claims made by Rosemary LaMantia against Defendants herein survive her death. WIS. STAT. § 895.03. Under Wisconsin law, the claims against the Defendants may be prosecuted by the surviving spouse of the deceased. WIS. STAT. § 895.04.

5. Fed. R. Civ. P. 25(a) provides that a party has a period of ninety (90) days after notice of a party's death is suggested upon the record to file a motion for substitution of parties. This motion is timely in that the Notice and Suggestion of Death was filed on August 26, 2020.

6. A proposed First Amended Complaint alleging survival and wrongful death claims is attached hereto as **Exhibit A**.

7. Plaintiff's counsel has met and conferred with Defendants' counsel, who has indicated Defendants do not oppose the motion.

DATED: August 27, 2020

Respectfully Submitted,

THE HANNON LAW FIRM, LLC

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**DULY AUTHORIZED SIGNATURE OF
KEVIN S. HANNON ON FILE AT THE
HANNON LAW FIRM, LLC**